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Eric S. Michlowitz

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HAMILTON & TERRILE, LLP  
P.O. BOX 203518  
AUSTIN, TX 78720

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STERRETT, JONATHAN G

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/733,190  
Filing Date: December 08, 2000  
Appellant(s): MICHLOWITZ ET AL.

Stephen A. Terrile, Reg. 32,946  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 3 February 2008 appealing from the Office action mailed 13 July 2007.

**(1) Real Part of Interest**

A statement identifying by name the real part of interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after non-final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

**Powers US 2002/0040309**

Supply Chain Council's webpage newsletter of November 1998 describing PRTM's online supply-chain benchmarking, pages 4-5, hereafter referred to as **Reference A**.

PRTM's webarchive.org webpage of December 5, 1998; page 3 that details PRTM's supply chain benchmarking approach, hereafter referred to as **Reference B**.

Supply Chain Council Presentation of May 12, 1999 by Scott Stephens detailing the Supply Chain Operations Reference Model. Note footnote on page 8 that PRTM organized the Supply Chain Council. This Reference hereafter known as **Reference C**.

PRTM press release, "High-Tech Management Consultants PRTM Launch Online Benchmarking Company", March 1999, pp.1-2. This Reference hereafter known as **Reference D**.

PRTM press release, "University of Michigan/OSAT and The Performance Measurement Group Launch a New Benchmarking Initiative for the Automotive Industry", January 21, 2000. This Reference hereafter known as **Reference E**.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims: The

ground(s) for rejection are reproduced below from the Final Office Action, mailed 13 July 2007, and are provided here for the convenience of both the Appellant and the Board of Patent Appeals:

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. **Claims 1-11, 14-16, 21 and 22** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In order to be statutory, the claimed invention must produce a useful, concrete, and tangible real-world result. An invention that fails to produce a tangible result is one that involves no more than the manipulation of an abstract idea. In order to be concrete, the result must be substantially repeatable or re-produce the same result. The result is useful when there is a real-world practical application.

**Claim 1** recites a series of steps comprising receiving into a website a number of evaluations that are used to generate an indicia of a supplier's performance. Since the method is tangibly embodied, it is not considered to be an abstract idea. However, there is no real-world practical application recited so the method is considered to fail the useful test. The method does not produce a concrete result because the method depends on the user inputting the score, rather than what is specified by the claim.

**Claim 9** recites a system that uses a series of steps comprising receiving into a website a number of evaluations that are used to generate an indicia of a supplier's performance. Since the system is tangibly embodied, it is not considered to be an abstract idea. However, there is no real-world practical application recited so the system is considered to fail the useful test. The system does not produce a concrete result because the system depends on the user inputting the score, rather than what is specified by the claim.

**Claim 14** recites a computer program product that uses a series of steps comprising receiving electronically a number of evaluations that are used to generate an indicia of a supplier's performance. Since the claim is tangibly embodied in a computer program product, it is not considered to be an abstract idea. However, there is no real-world practical application recited so the computer program product is considered to fail the useful test. The product does not produce a concrete result because the product depends on the user inputting the score, rather than what is specified by the claim.

**Claim 15** recites a system that stores data representing various operational attributes of suppliers. Since the claim is tangibly embodied in a system, it is not considered to be an abstract idea. However, there is no real-world practical application recited so the system is considered to fail the useful test.

**Claim 21** recites a series of steps comprising receiving into a website a number of evaluations that are used to generate an indicia of a supplier's performance. Since the system is tangibly embodied, it is not considered to be an abstract idea. However,

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there is no real-world practical application recited so the method is considered to fail the useful test. The method does not produce a concrete result because the method depends on the user inputting the score, rather than what is specified by the claim.

Therefore **Claims 1-11, 14-16, 21 and 22** are directed towards a non-statutory subject matter.

***.Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 1-3, 9, 14 and 21** are rejected under 35 U.S.C. 102(e) as being anticipated by **Powers US 2002/0040309**.

Regarding **Claim 1**, Powers discloses:

**receiving a first evaluation of the supplier submitted electronically by a team member of a customer of the supplier into a customer website,**

paragraph 21 line 3-5, performance evaluation system evaluates performance of a group, including for a supplier.

Paragraph 44 line 2-6, 11, Users use the performance evaluation system to enter evaluations into the system.

Paragraph 28 line 1-2, the system provides average scores for a particular member or level of the organization. An average evaluation score would include at least a first evaluation. Also paragraph 29 line 6-8, scores for users and hierarchy levels are charted. The plurality of evaluation scores entered into the system means that at least a first evaluation would be entered. Figure 2 shows a plurality of users who would enter evaluations into system.

Paragraph 36 line 3-6, users can access the performance evaluation system over the internet to enter evaluations.

**receiving a second evaluation of the supplier submitted electronically by a team leader of the customer into a customer website.**

Paragraph 21 line 3-5, performance evaluation system evaluates performance of a group, including for a supplier.

Figure 2 #104, product manager is a user of the system. The rest of Figure 2 shows a plurality of users who would enter evaluations into the system.

Paragraph 44 line 2-6, 11, product B manager (user 35) can use the performance evaluation system to enter evaluations. The users are the people in the system that perform the evaluations.



Paragraph 28 line 1-2, the system provides average scores for a particular member or level of the organization. An average evaluation score would include a second evaluation. Also paragraph 29 line 6-8, scores for users and hierarchy levels are charted. The plurality of evaluation scores entered into the system means that at least a second evaluation would be entered.

Paragraph 24 line 2-5, web pages can be downloaded to interface with invention.

Paragraph 36 line 3-6, users can access the performance evaluation system over the internet to enter evaluations.

**receiving a third evaluation of the supplier submitted by the supplier into a customer website,**

Paragraph 21 line 3-5, performance evaluation system evaluates performance of a group, including for a supplier.

Figure 2 #104, product manager is a user of the system.

Paragraph 44 line 2-6, 9, service manager (user 10) can use the performance evaluation system to enter evaluations. The service manager is head of a group that supplies service to the rest of the organization.

Figure 2, the service organization contains three members, a service manager (user 10), and service agents (users 11 and 12). A service manager evaluating the service organization would include providing at least a third evaluation.

Paragraph 36 line 3-6, users can access the performance evaluation system over the internet to enter evaluations.

**and generating an indicia of a supplier's performance based on the first, second and third evaluation, the supplier being chosen from a group consisting of a manufacturer manufacturing a component, an assembler assembling a component, a vendor and a service provider.**

paragraph 21 line 3-5, performance evaluation system evaluates performance of a group, including for a supplier (i.e. service provider).

Paragraph 28 line 1-2, summary reports provide average scores for a particular organizational level, including for a supplier. The average scores are based on the input evaluations, including for a first, second and third evaluation combined.

Figure 3 #124, para 39, Although Powers teaches that an internal service provider (i.e. supplier) can be evaluated by the invention, the description of the type of supplier as cited does not add patentable weight to the claim and is considered by the examiner to be nonfunctional descriptive material. The receiving of 3 evaluation reports to generate an indicia, as cited, is not structurally changed by specifying who is providing the reports.

Regarding **Claim 2**, Powers discloses:

**generating and providing a report representing the indicia of the supplier's performance**

Paragraph 105 line 3-4, system generates and provides reports and charts based on entered evaluation data.

Regarding **Claim 3**, Powers discloses:

**providing access for the supplier to view electronically the indicia of the performance of the supplier's performance.**

Paragraph 24 line 2-5, user interface allows web pages to be displayed.

Paragraph 29 line 6-8, productivity and quality scores are provided for hierarchical levels being evaluated, including for servicing and supplier organizations.

**Claim 9** is rejected under the same rationale as **Claim 1**.

**Claim 14** is rejected under the same rationale as **Claim 1**.

**Claim 21** is rejected under the same rationale as **Claim 1**.

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### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 4-8, 10-11 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Powers US 2002/0040309** in view of PRTM's Performance Management Group benchmarking service (referred to hereafter as **PRTM**) as disclosed in the following documents:

Supply Chain Council's webpage newsletter of November 1998 describing PRTM's online supply-chain benchmarking, pages 4-5, hereafter referred to as

**Reference A.**

PRTM's webarchive.org webpage of December 5, 1998; page 3 that details PRTM's supply chain benchmarking approach, hereafter referred to as **Reference B.**

Supply Chain Council Presentation of May 12, 1999 by Scott Stephens detailing the Supply Chain Operations Reference Model. Note footnote on page 8 that PRTM organized the Supply Chain Council. This Reference hereafter known as **Reference C.**

PRTM press release, "High-Tech Management Consultants PRTM Launch Online Benchmarking Company", March 1999, pp.1-2. This Reference hereafter known as **Reference D.**

PRTM press release, "University of Michigan/OSAT and The Performance Measurement Group Launch a New Benchmarking Initiative for the Automotive Industry", January 21, 2000. This Reference hereafter known as **Reference E.**

Regarding **Claim 4**, Powers does not teach:

**providing access for the supplier to view electronically an indicia of the performance of all suppliers in a class of components**

PRTM teaches:

**providing access for the supplier to view electronically an indicia of the performance of all suppliers in a class of components.**

Reference B page 1 paragraph 6, suppliers benchmarked in a class of components include 'computers and electronic equipment' and 'semiconductors'.

Reference D page 1 paragraph 2 line 3-6, participants can receive benchmarking data reports online to view an indicia of the performance of all suppliers.

Reference A page 5 paragraph B line 3, PRTM's benchmarking provides comparative performance data for a variety of industries.

PRTM teaches that benchmarking suppliers provides full visibility into the strengths and weaknesses of a manufacturing operation and leads to improvements in supply chain performance (Reference B page 3 paragraph D line 5-8, 8-11).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Powers, regarding entering supplier evaluations, to include providing access to a supplier to view an indicia of suppliers in a class of components, as taught by PRTM, because it would lead to improvements in supply chain performance through providing full visibility into the strengths and weaknesses of a manufacturing operation.

Regarding **Claim 5**, Powers does not teach:

**communicating an indicia of the performance of the supplier to members of a manufacturing organization.**

PRTM teaches:

**communicating an indicia of the performance of the supplier to members of a manufacturing organization.**

Reference D page 1 paragraph 1 line 5, supply chain performance is benchmarked and reports are provided to clients.

Reference B page 3 paragraph d line 1-2, metrics are provided in the benchmark study for the entire manufacturing enterprise, including to members of a manufacturing organization.

Reference B page 1 paragraph 2 line 4 – paragraph 3 line 1-2, PRTM provides performance measurement information as part of their benchmarking process.

PRTM teaches that benchmarking suppliers provides full visibility into the strengths and weaknesses of a manufacturing operation and leads to improvements in supply chain performance (Reference B page 3 paragraph D line 5-8, 8-11). This occurs because benchmarking indicates how a supplier performs in comparison to other suppliers and reveals particular areas where improvements are needed.

Communicating the results of a supply chain benchmarking effort, as taught by PRTM, to members of a manufacturing organization is part of their benchmarking process.

Reference C page 22 illustrates a SCOR Level 1 scorecard which is used for this

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purpose since it is a summary of top level supply chain performance metrics used to communicate supply chain performance.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Powers, regarding entering supplier evaluations, to include communicating the performance of a supplier to members of a manufacturing organization because it would lead to improvements in supply chain performance through providing full visibility into the strengths and weaknesses of supply chain performance.

Regarding **Claim 6**, Powers does not teach:

**analyzing the performance of a supplier based on the performance of the best supplier in the class of suppliers.**

PRTM teaches:

**analyzing the performance of a supplier based on the performance of the best supplier in the class of suppliers.**

Reference C page 22 Item 5, "Superior" category in Level 1 performance scorecard constitutes 'best in class' performance for that particular metric or indicia. The Level 1 scorecard provides an analysis of 'best in class' and also a range of

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performance from parity to superior in a category to provide an analysis of where a particular supplier performs in respect to that particular metric.

Reference A page 5 paragraph B line 3, comparative performance data from companies would provide analysis of supplier performance based on best and worst suppliers in a class of suppliers.

Reference C page 23, the chart on this page shows “BIC” or “Best in Class” analysis for various suppliers in a class of suppliers, eg ‘computers’ and ‘telecom’.

PRTM teaches that benchmarking suppliers provides full visibility into the strengths and weaknesses of a manufacturing operation and leads to improvements in supply chain performance (Reference B page 3 paragraph D line 5-8, 8-11). This occurs because benchmarking indicates how a supplier performs in comparison to other suppliers and reveals particular areas where improvements are needed. Analyzing the performance of the best supplier in a group of suppliers, as taught by PRTM, is a part of their benchmarking process. Reference C page 23 illustrates an analysis of various ‘best in class’ or BIC suppliers in various measures of supply chain performance. For example, BIC order fulfillment lead time (OFLT) for Industrial Companies declined from 9 days in 1996 to 4 days in 1997. Average OFLT for the same period ranges from 42 to 30 days respectively. The chart shows that there is a wide variation between an average company in the Industrial group and a BIC company. Analyzing the performance across the spectrum of supply chain metrics, as taught by PRTM, shows



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where a company is weakest and where efforts need to be concentrated to improve supply chain management performance.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Powers, regarding evaluation of suppliers to include analyzing BIC performance of a supplier, as taught by PRTM, because it would enable a company to improve supply chain management performance by focusing resources on the greatest opportunities for improvement.

Regarding **Claim 7**, Powers does not teach:

**analyzing the performance based on improvements required by a manufacturer.**

PRTM teaches:

**analyzing the performance based on improvements required by a manufacturer.**

Reference E page 1 paragraph 4 line 3-5, private scorecards for automotive suppliers provide analysis of performance based on improvements required. The required improvements are necessary for an auto supplier to deliver on their value proposition.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Powers regarding evaluation of suppliers, to include analyzing the performance based on improvements required by a manufacturer, as taught by PRTM, because it would enable a company to achieve improvements necessary to deliver on its value proposition to customers.

Regarding **Claim 8**, Powers teaches:

**agreeing to future performance targets.**

Paragraph 60 line 9-11, agreed-to performance targets are entered into the system.

Paragraph 93, productivity is calculated based on performance achieved over agreed-to performance target.

Regarding **Claim 10**, Powers teaches:

**wherein the computer system is configured to communicate over a network and to receive evaluations submitted from a second computer system across the network.**

Paragraph 24 line 2-5, web pages can be downloaded to interface with invention.

Paragraph 23 line 1-3, client and server platforms for evaluation system are connected by a network.

Paragraph 36 line 3-6, users can access the performance evaluation system over the internet to enter evaluations. This would require a second computer operating across the network.

Regarding **Claim 11**, Powers teaches:

**wherein the network is a public global communication network.**

Paragraph 23 line 1-3, client and server platforms for evaluation system are connected by a network, including the Internet, which is a public global communication network.

**Claim 22** is rejected under the same rationale as **Claim 5**.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

13. **Claims 15-20** are rejected under 35 U.S.C. 102(a) as being anticipated by PRTM.

Regarding **Claim 15**, PRTM discloses:

**a computer system including a data storage device,**

Reference E page 2 paragraph 2, PMG uses a database for storing benchmarking data for their online benchmarking service.

Reference D paragraph 2 line 3-6, PMG provides an online benchmarking service that utilizes a computer system to enter data sets and receive data reports.

**the data storage device storing data for a supplier performance among suppliers supplying a class of components comprising:**

Reference E page 2 paragraph 2, PMG uses a database for storing supply chain management benchmarking data.

Reference E page 2 paragraph 1, PMG's benchmarking data is mapped against the SCOR model, which includes data for a supplier performance among suppliers supplying a class of components.

Reference C page 22, "Supply Chain Scorecard" provides "performance versus competitive population" which is the data for a supplier performance among suppliers supplying a class of components.

**quality** (Reference C page 22 Item 1, Delivery Performance/Quality is a SCOR Level 1 metric),

**cost** (Reference C page 22 Item 2, Cost is a SCOR Level 1 metric),

**availability** (Reference C page 22 Item 3, Fill Rates measure how orders are filled and hence measures availability of product),

**service performance** (Reference C page 22 Item 4, Delivery

Performance to Commit Date measures level of service provided to customers once a delivery date has been committed) and

**top performers** (Reference A, Paragraph B, Line 4, best practices of top performers),

**the supplier being chose from a group consisting of a manufacturer manufacturing a component, an assembler assembling a component, a vendor and a service provider.**

Reference C page 18, the SCOR model used by PRTM clearly includes a manufacturer manufacturing a component (i.e. "production execution"). As above for claim 1, the limitation cited here for claim 15 is considered nonfunctional descriptive material.

Regarding **Claim 16**, PRTM discloses:

**a server wherein the computer system and the server are configured to communicate over a network and receive evaluations submitted from a second computer system across the network.**

Reference D page 1 paragraph 2 line 5-6, participants in the online benchmarking study can submit data, ie supply chain evaluations, from their computer over the internet to the PRTM server that is providing the benchmarking web service. See also Reference A Paragraph A Lines 2-3.

Regarding **Claim 17**, PRTM discloses:

**determining a best supplier in a class of suppliers, wherein the class of suppliers are those suppliers supplying a component to a manufacturer, the determining being performed by a computer system.**

Reference E page 2 paragraph 2, PMG uses a web-accessible database for storing supply chain management benchmarking data.

Reference E page 2 paragraph 1, PMG's benchmarking data is mapped against the SCOR model, which includes data for a supplier performance among suppliers supplying a class of components. Since the SCOR model is provided online, the determining of a BIC supplier is performed by a computer system.

Reference D page 2 paragraph 2 line 4-6, PMG provides benchmarking, including determining 'best in class' or BIC, as part their online benchmarking service.

**the supplier being chose from a group consisting of a manufacturer manufacturing a component, an assembler assembling a component, a vendor and a service provider.**

Reference C page 18, the SCOR model used by PRTM clearly includes a manufacturer manufacturing a component (i.e. "production execution"). As above for claim 1, the limitation cited here for claim 15 is considered nonfunctional descriptive material.

Regarding **Claim 18**, PRTM discloses:

**determining an indicia of quality of a component supplied by the supplier to the manufacturer.**

Reference C Item 1, Delivery Performance/Quality is a SCOR Level 1 Scorecard metric for measuring quality of a component supplied by a supplier to a manufacturer. In this case quality is primarily measured by perfect order fulfillment.

Regarding **Claim 19**, PRTM discloses:

**determining a cost of a component provided by a supplier**

Reference C Item 2, Cost is a Level 1 Scorecard metric comprising three different areas of supply chain cost directly associated with components supplied.

Regarding **Claim 20**, PRTM discloses:

**determining an indicia of availability of components supplied by a supplier.**

Reference C, Item 3, Fill Rate measures how available components are when an order is filled.

#### **(10) Response to Argument**

1. The applicant's arguments have been fully considered but are not persuasive.

The applicant argues on page 6 with respect to Claims 1, 9, 14 and 21 that the claims are statutory because they provide a concrete result. In further support of this argument, the applicant alleges that the claims do provide a concrete result because the entering of data by a person would provide the same result (i.e. if a person ranks a

supplier a "3", then the outcome of that ranking would be repeatable - the supplier's outcome from that person would be a "3").

The examiner respectfully disagrees.

In the art of surveys, it is generally known by a person of ordinary skill in the art to apply a scale to rate something or somebody. For example, the well known Likert scale (1 – strongly disagree, 2 - somewhat disagree, 3 – indifferent, 4 – somewhat agree, 5 – strongly agree), provides a way to assign a score based on a defined response. A person of ordinary skill in the art would achieve substantially repeatable and concrete results using the Likert scale (or some other similarly defined rating scale) to provide a rating to a supplier or some other thing that was the object of a survey. This repeatable result is achieved through the use of a defined scale.

In the instant application, the applicant does not provide a repeatable way to translate an individual's rating into a score - this is left up to the individual. Even the examples given in the specification do not provide an indication of what ratings should be given to score a supplier's performance. Because the ratings are dependent on the person giving the rating coming up with some sort of rating scale rather than a defined scale, the instant application does not provide a substantially repeatable result and is not statutory under 35 USC 101.

2. The applicant argues on page 7 that that Powers does not disclose as one of the types of users the actual supplier or vendor being evaluated.

The examiner respectfully disagrees.



The examiner notes that the terms, “team member of the customer”, “team leader of the customer” and “supplier” are nonfunctional descriptive material and do not make the claim patentably distinct over the prior art. Powers fully teaches a website where any number of evaluations of a supplier can be entered, including 3, in order to generate an indicia of the supplier’s performance. The data labels as cited in the claim do not change the functional relationships as claimed of data in the form of evaluations being entered into the system. Essentially, the functionality of entering three evaluations into a system to generate an indicia does not patentably distinguish the invention over the prior art.

Furthermore the examiner notes that in response to applicant's arguments, the recitation “**a supplier, the supplier including at least one of a manufacturer manufacturing a component, an assembler assembling a component, a vendor and a service provider**” has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

2. The applicant argues on page 9 that that Powers does not disclose a method for a customer to evaluate the performance of a supplier.

The examiner respectfully disagrees.

Powers teaches the evaluation of various individuals in a call center. In para 47, Powers teaches where an individual who functions as a call center agent is a member of an external agency. Thus, in evaluating a member of an external agency, this person is a "supplier" and the call center who has hired this person is a "customer". Furthermore, even assuming arguendo that Powers did not teach a "supplier" and a "customer" per se, these terms are nonfunctional descriptive material and do not change how the limitations of evaluating, as currently claimed, would be different from whether the claim cited "teacher" and "student" or "officer" and "enlisted person".

3. Applicant's further arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. While it appears that the applicant is providing an argument to point out where the cited references do not teach claim limitations, in actuality the applicant has listed the claimed limitations altogether with an assertion that they are not taught by the cited references. This does not meet the requirements of 1.111(b) because it does not specifically point out how the language of the claims distinguishes them from the references.

**(11) Related Proceeding(s) Appendix**

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No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jonathan G. Sterrett/  
Examiner  
Art Unit 3623

April 21, 2008

Conferees:

Vincent Millin /VM/

Appeals Conference Specialist

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Michelle Tarae /MT/

Primary Examiner 3623